

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

<b>TIMOTHY SHEARER</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	
	:	
<b>SHIRLEY R. MOORE SMEAL;</b>	:	
<b>THE DISTRICT ATTORNEY OF</b>	:	
<b>THE COUNTY OF PHILADELPHIA;</b>	:	
<b>THE ATTORNEY GENERAL OF</b>	:	
<b>THE STATE OF PENNSYLVANIA</b>	:	<b>No. 11-5315</b>

**ORDER**

AND NOW, this 27<sup>th</sup> day of February, 2013, upon consideration of the petition for writ of *habeas corpus*, the Report and Recommendation of Magistrate Judge Timothy R. Rice, petitioner's objections to the Report and Recommendation, and all other relevant papers in the record, for the reasons set forth in the accompanying memorandum, it is **ORDERED** that:

1. Petitioner's objections to the Report and Recommendation (paper no. 21) are **OVERRULED**.
2. The Report and Recommendation (paper no. 17) is **APPROVED** and **ADOPTED**.
3. The petition for a writ of habeas corpus (paper no. 1) is **DENIED**.
4. Because petitioner has failed to make a substantial showing of the denial of a constitutional right, there is no basis for issuing a certificate of appealability.

/s/ Norma L. Shapiro

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J.